

Attorney Docket No.: 0180221

REMARKS

Prior to the present response, claims 1-9 were pending in the present application. No claim amendments are introduced by the present response. Thus, claims 1-9 remain in the present application. Reconsideration and allowance of pending claims 1-9 in view of the following remarks are respectfully requested.

A. Rejection of claims 1-9 under 35 USC §102(b)

The Non-Final Office Action of May 29, 2008 (hereinafter "Office Action") rejects claims 1-9 under 35 USC §102(b) as being anticipated by U.S. Patent Number 5,780,891 to Kauffman et al. (hereinafter "Kauffman"). For the reasons discussed below, Applicants respectfully submit that the present invention, as defined by previously presented independent claim 1, is patentably distinguishable over Kauffman.

Consistently throughout prosecution of the present application, Applicants have respectfully asserted that a patentably distinctive difference between the present invention, as defined by independent claim 1, and the disclosure provided by Kauffman, is the disposition of the anti-reflective interpoly layer in the core stack comprised by the present invention's flash memory device. Moreover, Applicants have previously amended independent claim 1 to emphasize that patentably distinguishable structural difference, unambiguously reciting "an anti-reflective interpoly layer atop and in contact with the first polysilicon layer." *See*, previously presented claim 1 of the present application.

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In contrast to the structure described and specifically claimed by the present application, the teaching of Kauffman requires formation of an intervening silicon dioxide layer between the first polysilicon layer and the anti-reflective interpoly layer. Specifically, Kauffman teaches that first silicon dioxide layer 20 (rather than an anti-reflective interpoly layer) is formed on first polysilicon layer 18. *See*, col. 3, lines 60-64, and Figure 3 of Kauffman. Subsequently, “oxynitride layer 22 is deposited over first silicon dioxide layer 20,” (not first polysilicon layer 18). *Id.* at col. 4, lines 1-3, and Figure 3. Furthermore, Kauffman is unequivocal in stating that the anti-reflective interpoly layer provided by silicon oxynitride is not to be conflated or confused with other interpoly materials: “In the present invention, by contrast, the oxynitride film is a separate and distinct compound deposited over the underlying layer of silicon dioxide.” *Id.* at column 2, lines 47-50.

Nevertheless, the Office Action asserts that Kauffman does disclose an anti-reflective interpoly layer atop and in contact with a first polysilicon layer, and provides the following parenthetical comment in support of that conclusion: “(see abstract section, without using the bottom oxide layer 20).” *See*, page 3, second line, of the Office Action, parentheses reproduced from the original. Referring to the cited portion of Kauffman, however, we find that the abstract section, in its entirety, describes: “A floating memory device utilizing a composite oxide/oxynitride or oxide/oxynitride/oxide interpoly dielectric.” *See*, Abstract of Kauffman. Moreover, because Figure 8, which does not specifically identify a “bottom oxide layer 20,” accompanies the abstract section, we must look elsewhere in Kauffman to determine the structural relationship between the

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respective oxide/oxynitride and oxide/oxynitride/oxide layers of the alternative embodiments alluded to in the abstract.

Consulting the Detailed Description of the Invention provided by Kauffman for those details absent from the abstract section, it becomes apparent beyond reasonable dispute that the interpretation adopted by the Office Action to the effect that bottom oxide layer 20 is an optional element of the disclosed interpoly dielectric is incorrect. In fact, not only does Kauffman fail to disclose an interpoly dielectric “without using the bottom oxide layer 20” as asserted in the Office Action, the teaching in Kauffman affirmatively requires bottom oxide layer 20, while characterizing top oxide layer 24 as desirable but not required.

According to every embodiment disclosed in Kauffman, first oxide layer 20 is formed on polysilicon layer 18, and oxynitride layer 22 is formed on first oxide layer 20. *See*, col. 3, line 59 – col. 4, line 3 of Kauffman, referring to Figures 3 and 4. In addition, in a preferred embodiment, second oxide layer 24 is formed on oxynitride layer 22. *Id.* at col. 4, lines 23-32. Thus, it becomes clear that when the abstract section of Kauffman describes “a composite oxide/oxynitride or oxide/oxynitride/oxide interpoly dielectric,” as alternative embodiments, it is referring to an oxide(layer 20)/oxynitride(layer 22) or oxide(layer 20)/oxynitride(layer 22)/oxide(layer 24) interpoly dielectric. Under no circumstances, however, does Kauffman teach an interpoly dielectric “without using the bottom oxide layer 20” as posited by the Office Action. Consequently, and contrary to the interpretation advanced by the Office Action, Kauffman fails to teach, or even suggest, an anti-reflective interpoly layer atop and in contact with a first polysilicon

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layer, as described in the present application and specifically claimed by previously presented independent claim 1.

For the foregoing reasons, Applicants respectfully submit that at the time the invention defined by previously presented independent claim 1 was made, the invention was not anticipated by, nor would have been obvious in light of the disclosure provided by Kauffman. As a result, claims 2-9, depending from previously presented independent claim 1, are also patentably novel and inventive over Kauffman for the additional limitations contained in each dependent claim.

B. Conclusion

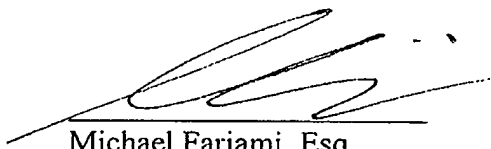
Based on the foregoing reasons, the present invention, as defined by previously presented independent claim 1 and claims depending therefrom, is patentably distinguishable over the art cited in the Office Action. Moreover, Applicants assert that no new matter has been introduced herein. Thus, claims 1-9 pending in the present application are patentably distinguishable over the art cited in the Office Action. As such, and for all the foregoing reasons, allowance of claims 1-9 pending in the present application is respectfully requested.

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Respectfully Submitted,
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